



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

June 14, 1991

Robert Bernstein, M.D.
Commissioner of Health
Texas Department of Health
1100 West 49th Street
Austin, Texas 78756-3199

OR91-291

Dear Dr. Bernstein:

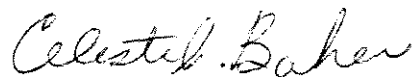
You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 12513.

You advise that the department surveys nursing homes in Texas on behalf of the Texas Department of Human Services. You have received a request for the work schedule for a particular investigator for the period October 1990 through March 1991. The request is from a representative of two nursing homes that were surveyed by the department. You explain that representatives of both homes have requested hearings before the Texas Department of Human Services to challenge the department's survey reports.

You state that such a work schedule does not exist and that the department would have to prepare such a work schedule for the investigator by extracting the information from existing nursing home files. The Open Records Act applies only to documents in existence and does not require the creation of new documents or the compilation of information in response to a request. See Attorney General Opinion JM-672 (1987); Open Records Decision No. 342 (1982). Thus, the department is not required to prepare the requested work schedule. Since the requested information does not exist we do not reach the question whether section 3(a)(3) of the Open Records Act applies.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-291.

Yours very truly,



Celeste A. Baker
Assistant Attorney General
Opinion Committee

CAB/lb

Ref.: ID# 12513

Enclosures: Attorney General Opinion JM-672; Open Records Decision No. 342.

cc: Mr. James Roberts
Regional Vice-President
American Manor, Inc.
3825 Village Creek Rd.
Fort Worth, Texas 76119